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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/554,230
Filing Date: October 25, 2005
Appellant(s): STAMPFL, NORBERT

DICRAN HALAJIAN
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on April 3, 2009 appealing from the Office

action mailed on November 4, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The Examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The Appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The Appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

7,321,923	Rosenberg et al.	March 2002
2003/0028893	Addington	August 2002
6,427,165	Anderson	November 1998
5,777,989	McGarvey	July 1998
2002/0003840	Ueda	January 2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, **6-7**, and **12-20**, are rejected under 35 U.S.C. 103(a) as being

unpatentable over <u>Rosenberg et al.</u> (*Pat. No. US 7,321,923, filed on March 18, 2002;*

herein after <u>Rosenberg</u>) in view of <u>Addington</u> (*Pub. No. US 2003/0028893, filed on*

August 1, 2002).

Regarding **claim 1**, <u>Rosenberg</u> clearly shows and discloses a method for

automatically searching at least one information source accessible through a data

network for contents that are supplied by this information source and satisfy at least one

predefined criterion, which contents comprise useful information and metadata that

characterizes the useful information, the information source changing the content

supplied by it under the control of control signals (*Figure 18*), the method comprising the

acts of:

selecting an information source (*Step S1808 of Figure 8 shows the step of*

receiving a sound recording broadcast by a music broadcaster),

receiving at least a part of the content supplied by the information source

selected, which part contains the metadata (*Figure 18 shows in step 1808, device 202*

receives a sound recording that is being broadcast by a music broadcaster (such as

music broadcaster 102) and plays the sound recording for user 110. Following step

1808, device 202 determines the identity of the received sound recording (step 1810). In

digital and analog audio broadcasting systems it is possible to transmit meta-data along

with the sound recordings, [Column 23, Lines 19-26]);

analyzing the metadata in respect of the predefined criteria and (*After step 1810*

control passes to step 1820. In step 1820, device 202 determines whether the received

sound recording is a "needed" sound recording. A "needed" sound recording is a sound

recording that is not in the sound recording library 216 and that matches an active

profile 219 or is listed in an active wanted lists 215, [Column 23, Lines 34-43]),

if the criteria are satisfied, processing the useful information received (*If the*

sound recording is needed or user 110 has indicated a preference for the sound

recording, device 202 adds the sound recording to the library 216. That is, in one

embodiment, device 202 performs steps 1822 and 1824. In step 1822, device 202

stores the sound recording in storage device 214, [Column 23, Lines 56-61]),

for as long as the at least one predefined criterion is not satisfied, generating a

control signal and transmitting it to the information source to change the content

supplied by the information source, and again receiving at least a part of the content

supplied by the information source, which part contains the metadata, and analyzing the

metadata in respect of the predefined criteria (*Figure 18 shows that in step 1820 and*

1821, the process go back to step 1808 in which a new recording broadcast by music

broadcaster is received. The process will carry out the steps of determine records

matching listener's criteria over again).

Rosenberg does not disclose storing an arrived content as stored content while

an associated metadata associated with the arrived content is still being analyzed, or

while awaiting arrival of the associated metadata, and discarding the stored content if

the associated metadata indicates that the useful information of the stored content does

not satisfy the predefined criteria

However, <u>Addington</u> discloses:

storing an arrived content as stored content while an associated metadata (*The*

broadcast segment processor 210a uses the stream metadata to determine which

segments of a media asset are to be packaged and archived. In other words, the

metadata defines which segments the broadcast segment processor 210a should

extract, [0031]. It is clear that the broadcast segment processor will search for which

segments of media will be packaged, archived or extracted using the associated

metadata) associated with the arrived content is still being analyzed, or while awaiting

arrival of the associated metadata (*if the pre-authored <u>metadata is sent</u> during or <u>after</u>*

<u>the segment broadcast has started and the segment is being cached in a live spool</u>

<u>210e at the headend</u>, the segment is packaged from the live spool 210e and sent to the

personal video exchange server 210c. In other words, if permitted by the asset provided

10, <u>the live spool 210e stores a portion of the broadcast</u>, [0034]. It is clear that while a

segment is being broadcasted, a portion of the segment is stored in the live spool while

waiting for the segment's metadata to arrive in order to send the segment to the

personal video exchange server), and

discarding the stored content if the associated metadata indicates that the useful

information of the stored content does not satisfy the predefined criteria (*the asset*

provider 10 may provide stream metadata that modifies this first-in-first-out algorithm of

the live spool 210e. For example, an asset provider 10 can send an instruction to the

live spool 210e to save a portion of a broadcast stream in the live spool 210e for a

specified period of time. Thus, the saved portion of the broadcast stream will not be

deleted by the live spool 210e when new content arrives, [0034]. It is clear that

metadata controls the storage age of a saved portion of a broadcast stream in the live

pool. When the storage age predefined by the metadata is expired, the saved portion of

the broadcasted segment will be deleted).

It would have been obvious to an ordinary person skilled in the art at the time of

the invention was made to incorporate the teachings of <u>Addington</u> with the teachings of

<u>Rosenberg</u> for the purpose of allowing a cable subscriber to select and view television

content on-demand at any time without first requiring the cable subscriber to have

recorded the television content on an in-home recording device ([0007] of <u>Addington</u>).

Regarding **claim 6**, <u>Rosenberg</u> further discloses the processing act includes

recording of the useful information on a data carrier (*If the sound recording is needed or*

user 110 has indicated a preference for the sound recording, device 202 adds the

sound recording to the library 216. That is, in one embodiment, device 202 performs

steps 1822 and 1824. In step 1822, device 202 stores the sound recording in storage

device 214, [Column 23, Lines 56-61]).

Regarding **claim 7**, <u>Rosenberg</u> clearly shows and discloses a search

arrangement for automatically searching at least one information source accessible

through a data network for contents that are supplied by this information source and

satisfy at least one predefined criterion, which contents comprise useful information,

and metadata that characterizes the useful information, the information source changing

the content supplied by it under the control of a control signal (*Figures 1-2*), which

search arrangement comprising:

receiving means (*Figure 2*) that are arranged to select a connection to an

information source and to receive useful information and metadata from the information

source selected (*Figure 18 shows in step 1808, device 202 receives a sound recording*

that is being broadcast by a music broadcaster (such as music broadcaster 102) and

plays the sound recording for user 110. Following step 1808, device 202 determines the

identity of the received sound recording (step 1810). In digital and analog audio

broadcasting systems it is possible to transmit meta-data along with the sound

recordings, [Column 23, Lines 19-26]);

analyzing means (*Figure 2*) that are arranged to analyze the metadata received

in respect of the at least one predefined criterion (*After step 1810 control passes to step*

1820. In step 1820, device 202 determines whether the received sound recording is a

"needed" sound recording. A "needed" sound recording is a sound recording that is not

in the sound recording library 216 and that matches an active profile 219 or is listed in

an active wanted lists 215, [Column 23, Lines 34-43]) and, if the criterion is not satisfied,

to generate and emit an activating signal that represents the non-satisfaction (*Figure 18*

shows that in step 1820 and 1821, the process go back to step 1808 in which a new

recording broadcast by music broadcaster is received. The process will carry out the

steps of determine records matching listener's criteria over again),

processing means (*Figure 2*) that are arranged to process the useful information

received (*If the sound recording is needed or user 110 has indicated a preference for*

the sound recording, device 202 adds the sound recording to the library 216. That is, in

one embodiment, device 202 performs steps 1822 and 1824. In step 1822, device 202

stores the sound recording in storage device 214, [Column 23, Lines 56-61]);

control-signal generating means (*Figure 2*) that are arranged to generate the

control signal and transmit it to the information source to change the contents supplied

by the information source, the control-signal generating means being so arranged that

they can be activated by the analyzing means with the help of the activating signal

(*Figure 18 shows that in step 1820 and 1821, the process go back to step 1808 in which*

a new recording broadcast by music broadcaster is received. The process will carry out

the steps of determine records matching listener's criteria over again).

Rosenberg does not disclose storing an arrived content as stored content while

an associated metadata associated with the arrived content is still being analyzed, or

while awaiting arrival of the associated metadata, and wherein the stored content is

discarded if the associated metadata indicates that the useful information of the stored

content does not satisfy the predefined criteria.

However, Addington discloses:

storing an arrived content as stored content while an associated metadata (*The*

broadcast segment processor 210a uses the stream metadata to determine which

segments of a media asset are to be packaged and archived. In other words, the

metadata defines which segments the broadcast segment processor 210a should

extract, [0031]. *It is clear that the broadcast segment processor will search for which*

segments of media will be packaged, archived or extracted using the associated

metadata) associated with the arrived content is still being analyzed, or while awaiting

arrival of the associated metadata (*if the pre-authored* <u>*metadata is sent*</u> *during or* <u>*after*</u>

<u>*the segment broadcast has started and the segment is being cached in a live spool*</u>

<u>*210e at the headend*</u>, *the segment is packaged from the live spool 210e and sent to the*

personal video exchange server 210c. In other words, if permitted by the asset provided

10, <u>*the live spool 210e stores a portion of the broadcast*</u>, [0034]. *It is clear that while a*

segment is being broadcasted, a portion of the segment is stored in the live spool while

waiting for the segment's metadata to arrive in order to send the segment to the

personal video exchange server), and

wherein the stored content is discarded if the associated metadata indicates that

the useful information of the stored content does not satisfy the predefined criteria (*the*

asset provider 10 may provide stream metadata that modifies this first-in-first-out

algorithm of the live spool 210e. For example, an asset provider 10 can send an

instruction to the live spool 210e to save a portion of a broadcast stream in the live

spool 210e for a specified period of time. Thus, the saved portion of the broadcast

stream will not be deleted by the live spool 210e when new content arrives, [0034]. *It is*

clear that metadata controls the storage age of a saved portion of a broadcast stream in

the live pool. When the storage age predefined by the metadata is expired, the saved

portion of the broadcasted segment will be deleted).

It would have been obvious to an ordinary person skilled in the art at the time of the invention was made to incorporate the teachings of Addington with the teachings of Rosenberg for the purpose of allowing a cable subscriber to select and view television content on-demand at any time without first requiring the cable subscriber to have recorded the television content on an in-home recording device ([0007] of Addington).

Regarding **claim 12**, Rosenberg further discloses input means for input of criteria for the contents and/or for the input of information-source addresses (*Figure 2*).

Regarding **claim 13**, Rosenberg further discloses the processing means are connected to display means and/or audio reproduction means and/or means for recording useful information (*Figure 2*).

Regarding **claim 14**, Rosenberg further discloses an arrangement for processing useful information having a search arrangement as claimed in **claim 7** (*Figures 1-2*).

Regarding **claim 15**, Rosenberg further discloses the information source streams the received content (*Receiver 210 can be any device that can receive a data stream. For example, it can be any one or a combination of the following: a radio frequency (RF) receiver for receiving data streams broadcast by radio waves, a cable-tv receiver for receiving signals transmitted through an analog or digital cable-tv system, a satellite receiver for receiving signals transmitted by satellite, a network receiver for receiving data streams transmitted through a network (e.g., the Internet), etc., [Column 5, Lines 23-35]*).

Regarding **claim 16**, <u>Rosenberg</u> further discloses the information source includes a plurality of contents that are organized in the form of playlists (*music broadcaster 102 has three playlists 112, 114, and 116. Each playlist is associated with one of the stations A, B, and C*, [Column 4, Lines 15-19]).

Regarding **claim 17**, <u>Rosenberg</u> further discloses the information source includes an Internet music server (*Additionally, broadcaster 102 may employ many networks and/or systems to broadcast music to listeners 110. Such networks/systems include: satellite networks, cable television networks, the Internet, conventional radio towers, and other like networks and systems*, [Column 4, Lines 9-14]).

Regarding **claim 18**, <u>Rosenberg</u> further discloses the receiving means receives multiple different streaming content that is concurrently supplied by the information source (*music broadcaster 102 has three playlists 112, 114, and 116. Each playlist is associated with one of the stations A, B, and C*, [Column 4, Lines 15-19]).

Regarding **claim 19**, <u>Rosenberg</u> clearly shows and discloses a method (*Figure 18*), including:

receiving both audio data and corresponding metadata indicative of the audio data from an information source, wherein the information source streams the audio data and the metadata (*Figure 18 shows in step 1808, device 202 receives a sound recording that is being broadcast by a music broadcaster (such as music broadcaster 102) and plays the sound recording for user 110. Following step 1808, device 202 determines the identity of the received sound recording (step 1810). In digital and*

analog audio broadcasting systems it is possible to transmit meta-data along with the

sound recordings, [Column 23, Lines 19-26]);

determining whether the metadata matches user specified criteria (*After step*

1810 control passes to step 1820. In step 1820, device 202 determines whether the

received sound recording is a "needed" sound recording. A "needed" sound recording is

a sound recording that is not in the sound recording library 216 and that matches an

active profile 219 or is listed in an active wanted lists 215, [Column 23, Lines 34-43]);

reproducing the audio data when the metadata matches the user specified

criteria (*If the sound recording is needed or user 110 has indicated a preference for the*

sound recording, device 202 adds the sound recording to the library 216. That is, in one

embodiment, device 202 performs steps 1822 and 1824. In step 1822, device 202

stores the sound recording in storage device 214, [Column 23, Lines 56-61]);

transmitting a control signal to the information source when the metadata does

not match the user specified criteria, wherein the information source streams second

audio data and second corresponding metadata indicative of the second audio data in

response to the control signal (*Figure 18 shows that in step 1820 and 1821, the process*

go back to step 1808 in which a new recording broadcast by music broadcaster is

received. The process will carry out the steps of determine records matching listener's

criteria over again), wherein the second audio data is different that the first audio data

(*Figure 4 illustrates the information contained in an exemplary playlist 218. As shown,*

playlist 218 contains a list of sound recording identifies. Each sound recording identifier

uniquely identifies a sound recording, [Column 12, Lines 1-4]).

Rosenberg does not disclose storing an arrived content as stored content while

an associated metadata associated with the arrived content is still being analyzed, or

while awaiting arrival of the associated metadata, and discarding the stored content if

the associated metadata indicates that the useful information of the stored content does

not satisfy the predefined criteria.

However, Addington discloses:

storing an arrived content as stored content while an associated metadata (*The*

broadcast segment processor 210a uses the stream metadata to determine which

segments of a media asset are to be packaged and archived. In other words, the

metadata defines which segments the broadcast segment processor 210a should

extract, [0031]. *It is clear that the broadcast segment processor will search for which*

segments of media will be packaged, archived or extracted using the associated

metadata) associated with the arrived content is still being analyzed, or while awaiting

arrival of the associated metadata (*if the pre-authored metadata is sent during or after*

the segment broadcast has started and the segment is being cached in a live spool

210e at the headend, the segment is packaged from the live spool 210e and sent to the

personal video exchange server 210c. In other words, if permitted by the asset provided

10, the live spool 210e stores a portion of the broadcast, [0034]. *It is clear that while a*

segment is being broadcasted, a portion of the segment is stored in the live spool while

waiting for the segment's metadata to arrive in order to send the segment to the

personal video exchange server), and

discarding the stored content if the associated metadata indicates that the useful

information of the stored content does not satisfy the predefined criteria (*the asset*

provider 10 may provide stream metadata that modifies this first-in-first-out algorithm of

the live spool 210e. For example, an asset provider 10 can send an instruction to the

live spool 210e to save a portion of a broadcast stream in the live spool 210e for a

specified period of time. Thus, the saved portion of the broadcast stream will not be

deleted by the live spool 210e when new content arrives, [0034]. *It is clear that*

metadata controls the storage age of a saved portion of a broadcast stream in the live

pool. When the storage age predefined by the metadata is expired, the saved portion of

the broadcasted segment will be deleted).

It would have been obvious to an ordinary person skilled in the art at the time of

the invention was made to incorporate the teachings of <u>Addington</u> with the teachings of

<u>Rosenberg</u> for the purpose of allowing a cable subscriber to select and view television

content on-demand at any time without first requiring the cable subscriber to have

recorded the television content on an in-home recording device ([0007] of <u>Addington</u>).

Regarding **claim 20**, <u>Rosenberg</u> further discloses presenting a message when

the available information sources have been searched without finding metadata that

matches the user specified criteria (*The server 280 uses this information to create an*

update message. Preferably, in creating the update message, server 280 compares a

list of "new" sound recordings (a "new" sound recording in one that was loaded on the

server on or after the date when the wanted list was last updated) to the received profile

information to determine whether any of the "new" sound recordings match the received

profile information (step 2304). After performing the comparison, the server transmits

one or more update messages to device 202 depending on whether any of the new

sound recordings fit the channel profile, [Column 27, Lines 26-38]).

Claims 2-4, and **9-10**, are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rosenberg et al. (*Pat. No. US 7,321,923, filed on March 18, 2002;*

herein after Rosenberg) in view of Addington (*Pub. No. US 2003/0028893, filed on*

August 1, 2002), and further in view of Anderson (*Pat. No. US 6,427,165, filed on*

November 18, 1998).

Regarding **claim 2**, Rosenberg, as modified by Addington, does not disclose

generating and transmitting acts are carried out for as long as the at least one

predefined criterion is not satisfied.

However, Anderson discloses generating and transmitting acts are carried out for

as long as the at least one predefined criterion is not satisfied (*a determination is made*

whether an information source, a node on the network, satisfy the search criterion by

containing the desired information, also known as 'hit'. If no information source is found,

the network continues to be searched until a predetermined condition is met, e.g., a

time-out period has passed or until a site containing the desired information is found,

[Column 4, Lines 32-39]. *Because the claimed language explicitly requires the acts to*

*be carried out as long as one condition (a predefined criterion **or** (emphasis added) an*

abort criterion) is met. Therefore, <u>Anderson</u> fully anticipates the predefined condition as a time-out period).

It would have been obvious to a person with ordinary skills in the art at the time of the invention to incorporate the teachings of <u>Anderson</u> with the teachings of <u>Rosenberg</u>, as modified by <u>Addington</u>, for the purpose of searching the network for the information based upon a predetermined criterion and locating the information on a node of the network where the information is stored ([Column 1, Line 65 → Column 2, Line 6] of <u>Anderson</u>).

Regarding **claims 3**, and **9**, <u>Anderson</u> further discloses the abort criterion being defined as failure to receive metadata from the information source selected at the time within a predefined period of time (*If no information source is found, the network continues to be searched until a time-out period has passed*, [Column 4, Lines 32-39]).

Regarding **claims 4**, and **10**, <u>Anderson</u> further discloses selecting another information source other than the information source that was selected when the abort criterion is met (*If the connection rate has such a low value that the download time for a given size of information file is too great, then time will not be wasted in attempting to download the information and an alternative node containing the desired information may be located*, [Column 5, Lines 4-11]).

Claims 5, and **11**, are rejected under 35 U.S.C. 103(a) as being unpatentable over <u>Rosenberg et al.</u> (*Pat. No. US 7,321,923, filed on March 18, 2002; herein after Rosenberg*) in view of <u>Addington</u> (*Pub. No. US 2003/0028893, filed on August 1, 2002*),

further in view of <u>Anderson</u> (*Pat. No. US 6,427,165, filed on November 18, 1998*), and

further in view of <u>McGarvey</u> (*Pat. No. US 5,777,989, published on July 7, 1998*).

Regarding **claims 5**, and **11**, <u>Rosenberg</u>, as modified by <u>Addington</u> and

<u>Anderson</u>, does not disclose after the last available information source has been

selected and an abortion criterion was met, discontinuing or suspending the searching

for a predefined period of time, and then continuing with selection of an available

information source.

However, <u>McGarvey</u> discloses after the last available information source has

been selected and an abortion criterion was met, discontinuing or suspending the

searching for a predefined period of time, and then continuing with selection of an

available information source (*Figure 1 shows a query is sent to DNS 115 and to DNS

116. The process then waits for a response to be received from any of the name

servers queried or for their timeout intervals to elapse as indicated at step 320. Suppose

a timeout occurs without a response having arrived from any of the name servers. If the

retry limit has not been reached in step 325, then the query is retried several times, in

case the original query packet was lost in transmission. If the retry limit has been

reached in step 325 without a response, a check is made for alternate name servers for

each of the domains that failed to respond as indicated in step 330. If such alternate

servers exist, they are sent copies of the original query in step 315*, [Column 5, Lines 9-

21]).

It would have been obvious to a person with ordinary skills in the art at the time

of the invention to incorporate the teachings of McGarvey with the teachings of

Rosenberg, as modified by Addington and Anderson, for the purpose of allowing any

host to be a member of multiple domains, each domain having a primary domain name

server and any number of alternate name servers, and allowing the name resolution for

this host to span the multiple domains without requiring significant modification to the

existing search logic ([Column 4, Line 64 → Column 5, Line 2] of McGarvey).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Rosenberg et al. (*Pat. No. US 7,321,923, filed on March 18, 2002; herein after*

Rosenberg) in view of Addington (*Pub. No. US 2003/0028893, filed on August 1, 2002*),

and further in view of Ueda et al. (*Pub. No. US 2002/0003840; published on January 10,*

2002; hereinafter Ueda).

Regarding **claim 8**, Rosenberg, as modified by Addington, does not disclose the

abort condition is defined as repeated reception of the same metadata from the same

information source and in that, if this abort criterion is met, the analysis of the metadata

received from the selected information source is terminated.

However, Ueda discloses the abort condition is defined as repeated reception of

the same metadata from the same information source and in that, if this abort criterion is

met, the analysis of the metadata received from the selected information source is

terminated (*the repetition terminating condition may be a compound condition, such as*

error-free decoding or a limit number of repetitions or reception of an embedded stream

header, [0075] and Figure 1).

It would have been obvious to a person with ordinary skills in the art at the time

of the invention to incorporate the teachings of Ueda with the teachings of Rosenberg,

as modified by Addington, for the purpose of analyzing the basis of the stream header

to detect for errors in the decoding process ([0014] of Ueda).

(10) Response to Argument

i. First ground of arguments

Claims 1, 6-7, and 12-20

First, Appellant's argument towards **claims 1**, **7**, and **19** regarding the fact that

the combination of Rosenberg and Addington does not teach or disclose *"storing an*

arrived content as stored content while an associated metadata associated with the

arrived content is still being analyzed, or while awaiting arrival of the associated

metadata".

The Examiner respectfully disagrees with the above remarks. Accordingly,

Addington teaches storing an arrived content as stored content while an associated

metadata associated with the arrived content is still being analyzed, or while awaiting

arrival of the associated metadata (*if the pre-authored metadata is sent during or after*

the segment broadcast has started and the segment is being cached in a live spool

210e at the headend, the segment is packaged from the live spool 210e and sent to the

personal video exchange server 210c. In other words, if permitted by the asset provided

10, the live spool 210e stores a portion of the broadcast, [0034]). It is clear that while a

segment is being broadcasted, a portion of the segment is stored in the live spool while

waiting for the segment's metadata to arrive in order to send the segment to the personal video exchange server.

Further, Addingon discloses the metadata is used in at least a search operation (*The broadcast segment processor 210a uses the stream metadata to determine which segments of a media asset are to be packaged and archived. In other words, the metadata defines which segments the broadcast segment processor 210a should extract*, [0031]). It is clear that the broadcast segment processor will search for which segments of media will be packaged, archived or extracted using the associated metadata.

Second, Appellant's argument towards **claims 1**, **7**, and **19** regarding the fact that Rosenberg and Addington does not teach or disclose "*discarding the stored content if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria*".

The Examiner respectfully disagrees with the above remarks. Accordingly, Addington further teaches discarding the stored content if the associated metadata indicates that the useful information of the stored content does not satisfy the predefined criteria (*the asset provider 10 may provide stream metadata that modifies this first-in-first-out algorithm of the live spool 210e. For example, an asset provider 10 can send an instruction to the live spool 210e to save a portion of a broadcast stream in the live spool 210e for a specified period of time. Thus, the saved portion of the broadcast stream will not be deleted by the live spool 210e when new content arrives*, [0034]). It is clear that metadata controls the storage age of a saved portion of a

broadcast stream in the live pool. When the storage age predefined by the metadata is expired, the saved portion of the broadcasted segment will be deleted.

Claims 6, **12**-**18**, and **20** are also rejected for the similar reasons presented above.

ii. Second ground of arguments

Claims 2-4, and 9-10

Appellant's argument towards **dependent claim 2** regarding the fact that Rosenberg, as modified by Addington and Anderson, does not teach or disclose "*the generating and transmitting acts are carried out for as long as the at least one predefined criterion **or** an abort criterion is not satisfied, the abort criterion being defined as repeated reception of the same metadata from the same information source*".

The Examiner respectfully disagrees with the above remarks. Accordingly, Anderson discloses generating and transmitting acts are carried out for as long as the at least one predefined criterion is not satisfied (*a determination is made whether an information source, a node on the network, satisfy the search criterion by containing the desired information, also known as 'hit'. If no information source is found, the network continues to be searched until a predetermined condition is met, e.g., a time-out period has passed or until a site containing the desired information is found,* [Column 4, Lines 32-39]). Because the claimed language explicitly requires the acts to be carried out as long as one condition (a predefined criterion **or** (emphasis added) an abort criterion) is met. Therefore, Anderson fully anticipates the predefined condition as a time-out period.

iii. Third ground of arguments

Claims 5, and 11

Appellant's argument towards **dependent claims 5**, and **11** regarding the fact

they are patentable because of their dependencies on **claims 1** and **7** respectively.

The Examiner respectfully disagrees with the above remarks. Since **claims 1**,

and **7** are rendered unpatentable in view of <u>Rosenberg</u> and <u>Addington</u> (see preceding

arguments), **claims 5** and **11** are also unpatentable because of their dependencies on

claims 1 and **7**.

iv. Fourth ground of arguments

Claim 8

Appellant's argument towards **dependent claim 8** regarding the fact it is

patentable because of its dependency on **claim 7**.

The Examiner respectfully disagrees with the above remark. Since **claim 7** is

rendered unpatentable in view of <u>Rosenberg</u> and <u>Addington</u> (see preceding arguments),

claim 8 is also unpatentable because of its dependency on **claim 7**.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the

Related Appeals and Interferences section of this Examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/S.T.H./

Examiner, Art Unit 2165

June 22, 2009

Conferees:

Neveen Abel-Jalil　　　　　　　　　　　　　**James Trujillo**

/Neveen Abel-Jalil/　　　　　　　　　　　　　/James Trujillo/
Supervisory Patent Examiner, Art Unit　　　　Supervisory Patent Examiner, Art Unit
2165　　　　　　　　　　　　　　　　　　　　　2159